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Travis judge tells woman to stop having kids Constitutionality of order in child injury case is questioned by experts.

By [Steven Kreytak](#)

AMERICAN-STATESMAN STAFF

Friday, September 12, 2008

AUSTIN, Texas – A judge in Travis County has ordered a woman to stop having children as a condition of her probation in her case of injury to a child by omission, an extraordinary measure that legal experts say could be unconstitutional.

The order was for Felicia Salazar, 20, who admitted to failing to provide protection and medical care to her then-19-month-old daughter last year. The girl suffered broken bones and other injuries when she was beaten by her father, Roberto Alvarado, 25, who was sentenced to 15 years in prison. Alvarado and Salazar relinquished their parental rights, and the child, who has recovered, was placed in foster care. On Sept. 5, state District Judge Charlie Baird sentenced Salazar, who had no criminal history, to 10 years of probation after she reached a plea bargain with prosecutors. In Texas, judges set conditions of probation. In addition to requiring Salazar to perform 100 hours of community service and to undergo a mental health assessment and setting other typical conditions, Baird told Salazar not to have any more children.

In an interview Wednesday, Baird said Texas law gives judges the discretion to set any conditions of probation deemed reasonable. He also said that neither Salazar nor her lawyer, Kent Anschutz, objected. "When you look her background, the circumstances of this case," he said, "a reasonable condition of her probation was that she not conceive or bear any children."

Anschutz said he is considering his options on behalf of Salazar. He described her as concerned about Baird's order.

"Although I fully understand the sentiment and perspective of the judge in this matter, I question the enforceability of that particular condition," he said.

Salazar couldn't be reached for comment.

The requirement that Salazar not conceive or bear any children is "probably not constitutional," said Douglas Laycock, a University of Michigan constitutional law professor.

Laycock, a former professor and associate dean for research at the University of Texas School of Law, said in an e-mail that the courts have recognized a fundamental right of people to make their own decisions about becoming parents.

"The state rarely tries to stop people from becoming parents, so there has not been much occasion to litigate that," he said. "But undoubtedly there is a constitutional right to have children ... and I doubt that one conviction for injury to a child is enough to forfeit that right."

Conditions of probation are enforced by putting a defendant in jail or prison when they are violated. It is doubtful whether Baird would or could do that if Salazar has children, said Keith Hampton, a veteran Travis County defense lawyer who is a second vice president of the Texas Criminal Defense Lawyers Association.

"I really don't see how that is going to be an enforceable order," Hampton said, citing court rulings that have expressed an unenumerated constitutional right to procreate. "It may be a good thing that this defendant heard someone in authority tell them 'We don't think you should have any more kids.' " Hampton said that Salazar could appeal the conditions of her probation, even before Baird attempts to enforce them.

Baird said he has never made a similar order in his more than 20 months on the District Court bench in Travis County. Other lawyers, including Allison Wetzel, the prosecutor in the case, say they are not familiar with any similar orders.

John Schmolesky, a criminal law professor at St. Mary's University School of Law in San Antonio, said conditions of probation must serve to protect the public or rehabilitate the defendant.

"This one might logically have a connection to protecting the public," he said of Baird's order. "Obviously if she neglected her kid, if she doesn't have any more, she can't neglect them."

But, Schmolesky said, "if I were a betting man, I would say that an appellate court would strike that one down."

Baird noted that by putting Salazar on probation, he sentenced her to 10 years in prison and suspended that sentence.

"If I put her in prison for 10 years, she could not conceive or bear children," he said. "I don't know how this is unreasonable for probation."

Laycock, the Michigan law professor, said that in a past Wisconsin case, a father of nine who was convicted of intentionally failing to pay child support was ordered to have no more children as a condition of probation. The Supreme Court of Wisconsin upheld that condition.

"So there's room for argument here," Laycock said. "But I would think that if she challenges this order, it will be struck down."

"On the other hand, if she got probation instead of jail, she may be happy with this and not want to challenge it."

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September 11, 2008

Port Huron residents prepare to vote

By *STEPHEN TAIT*
Times Herald

Port Huron resident Tiffany Pace filled out paperwork Thursday that will allow her to cast a vote in the Nov. 4 election.

The 37-year-old said it is important people register to vote.

"Voting gives you a choice on who runs the country and who governs the city," she said. "It's important."

Pace was one of at least 25 people who registered to vote Thursday during a voter registration fair at the Michigan Department of Human Services building in Port Huron.

For more on this story, read Friday's *Times Herald*.

DHS details plan to amend shortcomings found in critical audit

Gongwer News Service
Sept. 11, 2008

Department of Human Services officials who testified Thursday before the Senate Appropriations Human Services subcommittee said they would use technology as a way to make programs more efficient.

The hearing was in response to recent reports from the Auditor General regarding overpayments of \$147 million in childcare funds spent from October 2003 to March 2006 and additional funds spent toward people with criminal history providing child care.

Stanley Stewart, chief deputy director of DHS, and Lisa Brewer Walraven, director for the Office for Early Childhood Programs testified explaining what DHS intends to do to fix these problems. Ms. Brewer Walraven discussed a plan entitled "Seven Initiatives for Child Care Reform," some of which were profiled as early as 2003. The initiatives include changing the way background checks are performed on potential child care providers and revamping payment distribution.

"We are not here to assign blame, but here to find solutions," Mr. Stewart said. "These initiatives take advantage of technology to reduce the risk of improper payments and decrease mistakes." Mr. Stewart said this plan could be implemented for \$2.3 million of funds already available in DHS' budget, and fully implemented by April 2009.

In an e-mail with Gongwer News Service, DHS spokesperson Gisgie Gendreau said the agency is committed to children's welfare and fiscal accountability, and will continue to make progress in correcting the audit findings.

The seven-step plan is as follows:

- The department is conducting more comprehensive background checks, including fingerprinting.
- The department is going to improve the payment and billing verification systems to reduce fraud; the providers and clients will both need to provide the number of hours a child received care.
- The department will continue to audit client cases at high risk for fraud or error.
- The department will continue to investigate improper payments and refer them to prosecution as necessary.
- The department will continue to audit provider records to verify they qualify for payments.
- The department recently started and will continue to end eligibility for clients and providers who misuse the system.
- The department supports the nine-bill package currently approved by the House waiting on a Senate vote that will strengthen eligibility policies and training requirements for providers (See [Gongwer Michigan Report, June 25, 2008](#)).
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[Sen. Bill Hardiman](#) (R-Kentwood), chair of the subcommittee, said he appreciated DHS' suggesting solutions beyond requesting more funding.

"This audit has shown us there are some problems... children are at risk, and it's our job to be accountable," Mr. Hardiman said. "The safety of our children is (most important). Some of these changes will help us move in that direction."

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Article published September 12, 2008

Battle against hunger unites diverse faiths

Leaders preach on aiding the poor



Michelle Detmer of Sylvania prays with her daughter, Libby, 2, during the Interfaith Hunger Awareness service.
(THE BLADE/JEREMY WADSWORTH)

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By [DAVID YONKE](#)
BLADE RELIGION EDITOR

On the seventh anniversary of a terrorist attack by religious extremists, a multifaith group assembled in a Toledo church last night to express unity in alleviating hunger and poverty.

Representatives of Christian, Muslim, Jewish, and Hindu faiths participated in the third annual Interfaith Hunger Awareness Service, attended by about 100 people at Epiphany Lutheran Church in South Toledo.

Scriptures from four holy books - the Jewish Torah, the Christian New Testament, the Islamic Qur'an, and the Hindu Bhagavad Gita - were read, commanding followers to aid the poor and feed the hungry.

The program included music, prayer, and two children's skits as well as short sermons by Muslim and Christian clerics.

TOP RELIGION

Blade Religion Editor David Yonke is one of three finalists for the Religion Newswriters Association's 2008 Cornell Award, honoring the religion writer of the Year Award for mid-sized newspapers. Winners will be announced at the RNA annual conference in Washington, D.C., on Sept. 20. Here are the articles Yonke submitted that were recognized by the panelists.

[READ: Creation Museum's era dawns](#) (May 27, 2007)

[READ: A Torah for all time](#) (Feb. 24, 2007)

[READ: Pope flexes his theological muscle](#) (Dec. 8, 2007)

[READ: A Rocky road to healing](#) (July 15, 2007)

[READ: Church enlists devilish humor](#) (April 5, 2007)

In one skit, seven children representing the continents read statistics on hunger and poverty. North America has 6 percent of the world's population, for example, but consumes 22 percent of the food. Asia, on the other hand, has 58 percent of the world's population and consumes 23 percent of the food.

Dawud Walid, who is an imam, or Islamic spiritual leader, in Detroit and is the executive director of the Michigan chapter of the Council on American-Islamic Relations, told the audience that "I am a hungry person right now."

But he was hungry, he said, because he was observing the Muslim practice of fasting from dawn until dark during Ramadan, the ninth lunar month.

Millions of people in the world are hungry, not by choice, he said, but because they lack the resources to feed themselves.

Mr. Walid said the Prophet Mohammed, founder of Islam, said a person is not a believer if he goes to bed with a full stomach while his neighbor is hungry.

And the Prophet defined a neighbor as someone who lives within 40 homes to the left, right, front, or back of one's home - meaning the whole community, Mr. Walid said.

The Rev. Lee Powell, whose nondenominational CedarCreek Church draws 8,000 people a week to its three campuses, said he and other evangelical leaders had been "AWOL" for too long in the war on hunger and poverty. Calling himself a "novice" in the arena, he cited a number of efforts CedarCreek is undertaking, from fixing cars for single mothers in the church to helping AIDS orphans in Latin America.

The Bible makes a "clear call" to help those less fortunate, Mr. Powell said, citing Jesus' words in Matthew 25: "For I was hungry and you gave me something to eat, I was thirsty and you gave me something to drink. ..."

Heather Fetterman, marketing specialist for the Toledo Northwestern Ohio Food Bank, said before the service that an estimated 207,000 Ohioans and 35 million Americans are living on the brink of hunger.

Michigan Department of Human Services News Release

Contact: Edward Woods III (517) 373-7394 or (517) 927-1884

DHS Director Ahmed invites Upper Peninsula residents to reduce poverty and maximize economic opportunities for all

September 11, 2008

MARQUETTE - Department of Human Services Director Ismael Ahmed today formally invited regional human services organizations and residents here to join efforts to reduce poverty and maximize economic opportunities for all Michigan citizens by attending the 2008 Voices for Action Poverty Summit in Detroit on November 13.

"Too many families are just one paycheck away from sliding into poverty," Ahmed said. "More than half a million children in this state live in poverty. It's a national issue that affects one in five people including citizens all over Michigan. This poverty reduction summit will bring together leaders from across our state to identify strategies to enhance efforts already underway."

The day-long summit on November 13 kicks off a statewide initiative that builds on Governor Jennifer M. Granholm's efforts to create jobs, strengthen education and expand access to health care, college and job training by using regional teams to focus resources on the area's most pressing issues. Granholm and Martin Luther King III will keynote the summit, which also offers breakout sessions focusing on work and employment, education, health care and housing in regions.

Ahmed joined DHS staff, community residents and regional partners at a media roundtable at the Agape Café at the Faith in Christ Fellowship Church to talk about how Michigan families and individuals are finding creative solutions to these challenging economic times.

Michigan's poverty rate climbed to 14 percent, according to the federal Census' American Community Survey estimates for 2007. While the survey does not include recent numbers for the Upper Peninsula, residents continue to feel the impact of Michigan's challenging economic times.

"Michigan's efforts to reduce poverty and maximize economic opportunity will help achieve the national goal of reducing poverty by fifty percent in the next decade", Ahmed said. "We know that a state effort combined with regional solutions and committed, caring people can make all the difference."

For more information, please consult the DHS Web site at www.michigan.gov/dhs or www.michigan.gov/poverty.

Michigan Department of Human Services News Release

Contact: Edward Woods III (517) 373-7394 or (517) 927-1884

DHS Director Ahmed invites Northeast Michigan residents to reduce poverty and maximize economic opportunities for all

September 12, 2008

ALPENA - Department of Human Services Director Ismael Ahmed today formally invited regional human services organizations and residents here to join efforts to reduce poverty and maximize economic opportunities for all Michigan citizens by attending the 2008 Voices for Action Poverty Summit in Detroit on November 13.

"Too many families are just one paycheck away from sliding into poverty," Ahmed said. "More than half a million children in this state live in poverty. It's a national issue that affects one in five people including citizens all over Michigan. This poverty reduction summit will bring together leaders from across our state to identify strategies to enhance efforts already underway."

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Ahmed joined DHS staff, community residents and regional partners from Northeast Michigan Works! Agency and the Salvation Army Alpena Corps at a media roundtable at the Alpena Community College to talk about how Michigan families and individuals are finding creative solutions to these challenging economic times.

Michigan's poverty rate climbed to 14 percent, according to the federal Census' American Community Survey estimates for 2007. While the survey does not include recent numbers for the Northeast Michigan, residents continue to feel the impact of Michigan's challenging economic times.

"Michigan's efforts to reduce poverty and maximize economic opportunity will help achieve the national goal of reducing poverty by fifty percent in the next decade", Ahmed said. "We know that a state effort combined with regional solutions and committed, caring people can make all the difference."

For more information, please consult the DHS Web site at www.michigan.gov/dhs or www.michigan.gov/poverty.